

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**NOV 30 2005**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

ALFONSO AQUINO-CAMPERO;  
CESAR ALFONSO AQUINO-ZAPATA;  
MARIBEL AQUINO-ZAPATA,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-72246

Agency Nos. A95-299-337  
A95-299-338  
A95-300-190

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted November 16, 2005  
Pasadena, California

Before: CANBY, FERNANDEZ, and BERZON, Circuit Judges.

Alfonso Aquino-Campero and his children Cesar Alfonso Aquino-Zapata  
and Maribel Aquino-Zapata, natives and citizens of Mexico, petition for review of  
the Board of Immigration Appeals' ("BIA") summary affirmance without opinion

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to  
or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

of an Immigration Judge's ("IJ") denial of their consolidated motions to reopen proceedings in which they were ordered removed in absentia. We deny the petition for review.

Reviewing for abuse of discretion, *Celis-Castellano v. Ashcroft*, 298 F.3d 888, 891 (9th Cir. 2002), we conclude that the IJ acted within his discretion in denying the motions. The record before the IJ does not compel finding that Aquino-Campero met his burden of demonstrating an illness serious enough to constitute an exceptional circumstance. *See* 8 U.S.C. § 1229a(e)(1). Moreover, the IJ properly considered as an adverse factor that none of the three petitioners attempted to notify the Immigration Court. *See Celis-Castellano*, 298 F.3d at 892.

In addition, there was no violation of the petitioners' due process rights by the agency. The petitioners' reliance on *Singh v. INS*, 213 F.3d 1050 (9th Cir. 2000), in which the BIA acted in contravention of due process, is misplaced. In this case, the IJ's decision provided the petitioners with adequate notice that they lacked sufficient evidence. *Cf. id.* at 1053 (stating that Singh "had no notice that he was required to provide any of these specific pieces of evidence which the BIA viewed as fatal to his petition").

Finally, the BIA's failure to remand for consideration of the petitioners' new submissions was not improper. Assuming that remand was available, the

petitioners have not demonstrated prejudice from the BIA's action in the context of the record as a whole. *See Ramirez-Perez v. Ashcroft*, 336 F.3d 1001, 1007 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED.**